



Reprinted
January 16, 2004

HOUSE BILL No. 1005

DIGEST OF HB 1005 (Updated January 15, 2004 4:33 pm - DI 52)

Citations Affected: IC 6-1.1; IC 24-4.5; IC 28-1; IC 28-5; IC 28-6.1; IC 28-7; noncode.

Synopsis: Property tax benefits and study commission. With respect to a residential real property financing or refinancing, requires a closing agent to provide to each customer information on property tax deductions and the homestead credit on a form prescribed by the department of local government finance. Imposes a penalty on a closing agent that does not comply. Provides for additional information about property taxes to be provided with the property tax statement of current and delinquent taxes and special assessments in a pilot program in certain counties in 2005 and statewide after 2005. Provides for state reimbursement of expenditures made by a county to provide the additional information. Establishes the local government finance study commission.

Effective: Upon passage; July 1, 2004.

Reske, Chowning

December 4, 2003, read first time and referred to Committee on Ways and Means.
January 12, 2004, amended, reported — Do Pass.
January 15, 2004, read second time, amended, ordered engrossed.

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HB 1005—LS 6606/DI 52+



Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1005

A BILL FOR AN ACT to amend the Indiana Code concerning
taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-12-43 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 43. (a) For purposes of this section:**

4 **(1) "benefit" refers to:**

5 **(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26,**
6 **29, 31, 33, or 34 of this chapter; or**

7 **(B) the homestead credit under IC 6-1.1-20.9-2;**

8 **(2) closing agent" means a person that closes a transaction,**
9 **other than an individual or an attorney;**

10 **(3) "customer" means an individual who obtains a loan in a**
11 **transaction; and**

12 **(4) "transaction" means a single family residential:**

13 **(A) first lien purchase money mortgage transaction; or**

14 **(B) refinancing transaction.**

15 **(b) Before closing a transaction after December 31, 2004, a**
16 **closing agent must provide to the customer the form referred to in**
17 **subsection (c).**

HB 1005—LS 6606/DI 52+



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(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c), and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) A closing agent to which this section applies shall document its compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

(f) A closing agent is subject to a civil penalty of twenty-five dollars (\$25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the property tax replacement fund.

(g) The state agency that has administrative jurisdiction over a closing agent shall:

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(1) examine the closing agent to determine compliance with this section; and

(2) impose and collect penalties under subsection (f).

SECTION 2. IC 6-1.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county treasurer shall either:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book a statement of current and delinquent taxes and special assessments; or

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records a statement of current and delinquent taxes and special assessments.

(b) The county treasurer may include the following in the statement:

(1) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(2) Information designed to inform the taxpayer or mortgagee clearly and accurately of the manner in which the taxes billed in the tax statement are to be used.

A form used and the method by which the statement and information, if any, are transmitted must be approved by the state board of accounts. The county treasurer may mail or transmit the statement and information, if any, one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(c) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

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(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program. The requirements of subsection (e) apply:

(1) only in:

(A) a county designated under this subsection; or

(B) a county adopting an ordinance under this subsection; for property taxes first due and payable after December 31, 2004, and before January 1, 2006; and

(2) in all counties for taxes first due and payable after December 31, 2005.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

(1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

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(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(4) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(5) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2).

(f) The information required to be mailed under subsection (e) must be simply and clearly presented and understandable to the average individual.

(g) A county that incurs:

(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or

(2) printing costs directly related to mailing information under subsection (e);

shall submit an itemized statement of the costs to the department of local government finance for reimbursement from the state. The treasurer of state shall pay a claim submitted under this section on a warrant of the auditor of state.

SECTION 3. IC 24-4.5-3-701 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as**

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the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.

SECTION 4. IC 28-1-5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. With respect to a residential real property financing or refinancing, a corporation shall comply with IC 6-1.1-12-43.**

SECTION 5. IC 28-5-1-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. With respect to a residential real property financing or refinancing, an industrial loan and investment company shall comply with IC 6-1.1-12-43.**

SECTION 6. IC 28-6.1-6-25 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. With respect to a residential real property financing or refinancing, a savings bank shall comply with IC 6-1.1-12-43.**

SECTION 7. IC 28-7-1-38 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 38. With respect to a residential real property financing or refinancing, a credit union shall comply with IC 6-1.1-12-43.**

SECTION 8. [EFFECTIVE JULY 1, 2004] (a) The local government finance study commission is established.

(b) The commission consists of eight (8) members appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be of the same political party, to be appointed by the president pro tempore of the senate with the advice of the minority leader of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be of the same political party, to be appointed by the speaker of the house of representatives with the advice of the minority leader of the house of representatives.

(c) The commission has twelve (12) nonvoting advisers as follows:

(1) Four (4) city or town officials, not more than two (2) of whom may be of the same political party, to be appointed as follows:

(A) Two (2) appointed by the president pro tempore of the senate with the advice of the minority leader of the senate.

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- 1 (B) Two (2) appointed by the speaker of the house of
 2 representatives with the advice of the minority leader of
 3 the house of representatives.
 4 (2) Four (4) county officials, not more than two (2) of whom
 5 may be of the same political party, to be appointed as follows:
 6 (A) Two (2) appointed by the president pro tempore of the
 7 senate with the advice of the minority leader of the senate.
 8 (B) Two (2) appointed by the speaker of the house of
 9 representatives with the advice of the minority leader of
 10 the house of representatives.
 11 (3) Four (4) private citizens, not more than two (2) of whom
 12 may be of the same political party, to be appointed by the
 13 governor.
 14 (d) A member or adviser appointed to the commission serves at
 15 the pleasure of the appointing authority. If a vacancy exists on the
 16 commission or among the advisers, the vacancy shall be filled by
 17 the appointing authority who made the original appointment.
 18 (e) The chairman of the legislative council shall name the
 19 chairperson of the commission.
 20 (f) The commission shall conduct a study of ways to replace ad
 21 valorem property taxes as a source of funding for local
 22 government. The commission may study any other topic assigned
 23 to the commission by the legislative council.
 24 (g) The commission shall operate under the policies governing
 25 study committees adopted by the legislative council.
 26 (h) The affirmative votes of a majority of the voting members
 27 appointed to the commission are required for the commission to
 28 take action on any measure, including final reports.
 29 (i) This SECTION expires December 31, 2005.
 30 SECTION 9. [EFFECTIVE UPON PASSAGE] IC 6-1.1-22-8, as
 31 amended by this act, applies only to statements prepared and
 32 mailed for property taxes and special assessments first due and
 33 payable after December 31, 2004.
 34 SECTION 10. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1005, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, delete "has the meaning set forth in" and insert **"means:**

(1) a financial institution (as defined in IC 28-1-1-3(1)); or

(2) any other entity;

that enters into a residential real property financing or refinancing transaction with a customer."

Page 1, delete line 9.

Page 1, line 11, delete "June 30," and insert **"December 31,"**

Page 1, line 15, after "(b)." insert **"The department shall make the form available to financial institutions, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public."**

Page 2, line 9, delete "on" and insert **"in"**.

Page 2, line 9, delete "of paper".

Page 2, line 15, delete "paper" and insert **"print"**.

Page 2, line 25, delete "recovered under IC 28-11-4;" and insert **"enforced by the state agency that has administrative jurisdiction over the financial institution in the same manner that the agency enforces the payment of fees or other penalties payable to the agency;"**.

Page 2, line 27, delete "department of financial institutions" and insert **"state agency that has administrative jurisdiction over a financial institution"**.

Page 2, line 28, after "examine" insert **"the"**.

Page 2, line 28, delete "institutions" and insert **"institution"**.

Page 3, delete lines 28 through 42, begin a new paragraph and insert:

"(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The requirements of subsection (e) apply:

(1) only in the counties designated under this subsection for taxes first due and payable after December 31, 2004; and

(2) in all counties for taxes first due and payable after

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December 31, 2005.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

- (1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.
- (2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.
- (3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year."

Page 4, delete lines 1 through 6.

Page 4, between lines 19 and 20, begin a new line block indented and insert:

"(5) A checklist that shows:

(A) the homestead credit and all property tax deductions;
and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2)."

Page 4, line 20, delete "(e)" and insert "(f)".

Page 4, line 20, delete "(d)" and insert "(e)".

Page 4, line 23, delete "(f)" and insert "(g)".

Page 4, line 23, delete "treasurer of a county".

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Page 4, line 25, delete "(d)" and insert "(e)".

and when so amended that said bill do pass.

(Reference is to HB 1005 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 27, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1005 be amended to read as follows:

Page 1, line 7, delete "and".

Page 1, delete lines 8 through 12, begin a new line block indented and insert:

"(2) closing agent" means a person that closes a transaction, other than an individual or an attorney;

(3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction."

Page 1, line 13, delete "residential real property financing or" and insert **"transaction"**.

Page 1, line 14, delete "refinancing".

Page 1, line 14, delete "financial institution" and insert **"closing agent"**.

Page 1, line 17, delete "financial" and insert **"closing agents"**.

Page 2, line 1, delete "institutions".

Page 2, line 2, delete "financial institutions," and insert **"closing agents,"**.

Page 2, line 21, delete "financial institution:" and insert **"closing agent:"**.

Page 2, line 22, delete "and".

Page 2, line 24, delete "finance." and insert **"finance; and**

(3) is not responsible for the content of the form referred to in subsection (c), and shall be held harmless by the department of local government finance from any liability for the content of the form."

Page 2, line 25, delete "financial institution" and insert **"closing agent"**.

Page 2, line 27, delete "residential real property financing or refinancing".

Page 2, line 29, delete "financial institution" and insert **"closing agent"**.

Page 2, line 29, delete "fifty" and insert **"twenty-five"**.

Page 2, line 30, delete "(\$50)" and insert **"(\$25)"**.

Page 2, line 30, delete "financial institution" and insert **"closing agent"**.

Page 2, line 34, delete "financial institution" and insert **"closing**

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agent".

Page 2, line 39, delete "financial institution" and insert "**closing agent**".

Page 2, line 40, delete "financial institution" and insert "**closing agent**".

Page 4, delete lines 29 through 32, begin a new line block indented and insert:

"subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year."

Page 5, delete lines 13 through 14, begin a new paragraph and insert:

"(g) A county that incurs:

(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or

(2) printing costs directly related to mailing information under subsection (e);"

(Reference is to HB 1005 as printed January 13, 2004.)

RESKE

HOUSE MOTION

Mr. Speaker: I move that House Bill 1005 be amended to read as follows:

Page 4, line 3, after "this subsection." insert "**The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program."**

Page 4, delete lines 4 through 5, begin a new line block indented and insert:

"(1) only in:

HB 1005—LS 6606/DI 52+



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**(A) a county designated under this subsection; or
(B) a county adopting an ordinance under this subsection;
for property taxes first due and payable after December 31,
2004, and before January 1, 2006; and".**

(Reference is to HB 1005 as printed January 13, 2004.)

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